

County of Culpeper

Board of Supervisors
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June 24, 2009

Mr. John M. Kennedy
Department of Environmental Quality
Commonwealth of Virginia
P.O. Box 10009
Richmond, VA 23240-0009

Re: Petition Pursuant To House Bill 2074

Dear Mr. Kennedy:

This is a petition by the County of Culpeper, Virginia (the "County") pursuant to House Bill 2074 [Virginia Acts of Assembly – 2009 Session: Chapter 361] (Petition) to extend the deadline in the Water Quality Management Planning Regulation (9 VAC 25-720) to obtain a Certificate to Operate the Mountain Run Wastewater Treatment Plant ("Mt. Run WWTP" or "Plant") at a design capacity of 2.5 million gallons per day (MGD) to December 31, 2015. In support of this Petition, the County states and follows:

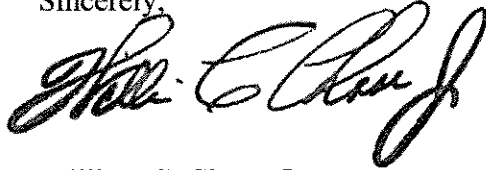
1. The Water Quality Management Planning Regulation establishes waste load allocations (WLAs) for total nitrogen (TN) and total phosphorus (TP) of 30,456 pounds per year and 2,284 pound per year, respectively, for the Mt. Run WWTP based on a design capacity of 2.5 MGD. *See*, 9 VAC 25-720-70 C. However, footnote (2) to 9 VAC 25-720-70 C provides that if the Mt. Run WWTP is not certified to operate at a design flow capacity of 2.5 MGD by December 31, 2010, the WLAs will decrease to TN = 18,273 lbs/yr and TP = 1,827 lbs/yr based on a design flow capacity of 1.5 MGD.
2. These allocations were based on 2005 projections of demand for wastewater service in the County's then rapidly growing Town Environs, Airpark, Elkwood, and Brandy Station areas. *See*, correspondence dated April 25, 2005 and August 24, 2005 from John F. Coates, Chairman, Culpeper County Board of Supervisors, to John M. Kennedy, copies of which are attached and incorporated herein by reference.

3. In reliance on the above-referenced WLAs, the County has made a significant investment of time and money in planning and design for the Mt. Run WWTP at a design flow capacity of 2.5 MGD, including:
 - (a) Purchased 78 acres of land for \$1,100,000 on September 1, 2006 for the Plant;
 - (b) Expended \$1,425,000 on engineering services for design of the Plant;
 - (c) Applied for and on April 5, 2007 received a modification of VPDES Permit No. VA0090212 for the Mt. Run WWTP to increase the permitted capacity to 2.5 MGD;
 - (d) Received on April 28, 2008, a Certificate to Construct the Mt Run WWTP at a design flow capacity of 2.5;
 - (e) Adopted on October 2, 2007, a water and sewer service area in the Town Environs in preparation for serving this area with the Plant; and
 - (f) Committed to expend \$500,000 in FY 2010 on design for sewer lines in the Inlet and Lovers Lane areas as part of the Mt Run WWTP collection system.
4. Additionally, the County has expended over \$1,455,000 to install a 100,000 gallon per day package treatment plant as an interim measure to provide service to the new Culpeper County High School and Town Environs pending construction of the Mt. Run WWTP. This package plant will be replaced with the Plant when it begins operation.
5. Beginning in 2007, the County began to experience an unanticipated significant downturn in economic activity, particularly in new home construction in the areas to be served by the Mt. Run WWTP. This economic downturn (which reflected the consequences of nationwide credit crisis) continued to grow worse during the remainder of 2007, throughout 2008, and into 2009 to the point where new home, construction dropped to a level less than 10 percent of that which was experienced in 2006.
6. The County is dependent on the revenues from growth in the Mt. Run WWTP service area to underwrite the estimated \$19,500,000 cost of the Plant. The County is unable to finance construction of the Mt. Run WWTP without these revenues. Consequently, the County has been forced to delay construction of the Plant until the pace of new home, commercial, and retail construction in the Plant's service area resumes to the rate that will support the cost of its construction.

7. Although the County is unable to predict when new home, commercial, and retail construction will recover to the point where it will support construction of the Mt. Run WWTP, it is optimistic that this will occur within a timeframe that will allow the County to complete construction no later than December 31, 2015.

If you have any questions concerning the above, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "W. C. Chase, Jr.", written in a cursive style.

William C. Chase, Jr.
Chairman